

Remarks

In the Disposition of Claims section of the Office Action Summary, it is said that claims 40-47 are pending. This is an error. Claims 40-48 are pending (see p. 2, DETAILED ACTION). In any case, all claims stand rejected.

It should be stated at the outset that the applicant has repeatedly requested correction of the Filing Receipt to show the correct title of the application as amended in the Preliminary Amendment filed with this application as well as the current title version. We have yet to receive a corrected Filing Receipt.

35 USC §112

Claims 40 and 48 have been rejected as being overly broad and not supported by the specification. Applicant traverses these rejections.

Applicant is puzzled by the examiner's extensive discussion of claim 1 in his arguments. Claims 1-39 were canceled by applicant in a Preliminary Amendment filed with the patent application, and, therefore, claim 1 is not pending.

Claim 40 has now been narrowed to provide additional required generic characteristics of the inventive kernel organic extract composition, all of which are present on p. 8 of the disclosure.

Claim 48 descends from narrowed claim 40, as well as detailed secondary claims 41-47.

Accordingly, these rejections should be withdrawn.

35 USC 102(b)

Claims 40 and 48 are rejected as not being novel over the Brown 1962 patent reference. Applicant traverses these rejections.

This reference discloses skin-treating compositions containing olive oil. The examiner asserts on p.6 of the Detailed Action that "Olive oil is extracted from the entire olive, including the kernel."

With all due respect, the examiner is mistaken on two counts: (1) the reference does not mention olive kernels; and (2) it is well known in the art that

well known that producers of olive oil go to great lengths to avoid crushing the kernel, as doing so will impart a bitter taste to the oil. This point is made in amended claim 40 and in claim 41, as well as in the specification, that the source of the olive oil (flesh) is removed from the kernel prior to further processing.

In this connection, the examiner is referred to the state-of-the-art reference "All About Oils", Ask Dr. Sears.com (copy enclosed). On p. 5 it is stated "Olive oil is made from the flesh of olives rather than the seeds." (Seeds are, of course, another name for kernels.) Also stated is "Olive oil...is the only oil that can be obtained directly from the flesh and not the seed."

Further, prior to applicant's discovery, the only known use for the kernel by-product of olive oil production was its use as a biomass fuel for energy production.

Taken together, the above-stated facts make it clear that the Brown reference does not read on the claims. Accordingly, these rejections should be withdrawn.

The examiner is respectfully urged to pass this application to allowance and issue.

Respectfully submitted,

First submitted Date: 11/14/2005
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olive oil comes from the flesh of the olive, and not from the kernel. In fact, it is well known that producers of olive oil go to great lengths to avoid crushing the kernel, as doing so will impart a bitter taste to the oil. This point is made in amended claim 40 and in claim 41, as well as in the specification, that the source of the olive oil (flesh) is removed from the kernel prior to further processing.

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